

**REMARKS**

Claims 1 through 4, 6 through 11 and 14 through 17 are pending in this application. Claims 14 and 16 have been amended and claim 18 cancelled. Care has been exercised to avoid the introduction of new matter. Indeed, adequate descriptive support for the present Amendment should be apparent throughout the originally filed disclosure. In this respect Applicants note that the amendment to claim 14 is consistent with Applicants' right to restrict an originally disclosed invention. *In re Johnson*, 558 F.2d 1008, 194 USPQ 187 (CCPA 1977). Applicants submit that the present Amendment does not generate any new matter.

**Claim 14 was rejected under 35 U.S.C. § 102 for lack of novelty as evidenced by Uk. 615 in view of Shepard et al.**

In the statement of the rejection the Examiner admitted that Uk '615 does not disclose "the use of temperature profile and control in the heating process". The Examiner concluded that such would have been obvious in view of Shepard et al. The Examiner further asserted that Uk '615 discloses control of the power supply to the plasma torch to control the intensity of the plasma and, hence, the temperature. This rejection is traversed.

Applicants submits that there is a fundamental difference between the claimed apparatus and the applied prior art that undermines the ultimate legal conclusion of obviousness under 35 U.S.C. § 103. Specifically, the apparatus defined in independent claim 14 contains, *inter alia*, a control unit for adjusting the temperature distribution based on the measured temperature distribution. The control unit operates by adjusting the flow rate or the moving device. No such control unit is disclosed by either of the applied references. Indeed, Uk '615 does not disclose a control unit for adjusting the flow rate or the moving device. Neither do Shepard et al.

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Based upon the foregoing it should be apparent that even **if** the applied references are combined as suggested by the Examiner, and Applicants do **not** agree that the requisite fact-based motivation has been established, the claimed invention would **not** result. *Uniroyal, Inc. v. Rudkin-Wiley Corp.*, 837 F.2d 1044, 5 USPQ2d 1434 (Fed. Cir. 1988).

Applicants, therefore, submit that the imposed rejection of claim 14 under 35 U.S.C. § 103 for obviousness predicated upon Uk '615 in view of Shepard et al. is not factually or legally viable and, hence, solicit withdrawal thereof.

### **Claim 16**

The Examiner indicated that claim 16 was rejected. However, the Examiner never articulated any basis to reject claim 16. At any rate, the imposed rejection of claim 16 is traversed.

Applicants have amended claim 16 to depend from claim 14. Applicants also incorporate herein the arguments previously advanced in traversing the imposed rejection of claims 14 under 35 U.S.C. § 103 for obviousness predicated upon Uk '615 in view of Shepard et al. Claim 16 is, therefore, free of the applied prior art.

Withdrawal of the rejection of claim 16 is solicited.

**Claim 18 was rejected under 35 U.S.C. § 102 for lack of novelty as evidenced by Uk '615.**

This rejection is traversed. Indeed, this rejection has been rendered moot by canceling claim 18.

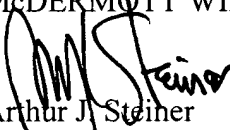
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Applicants, acknowledge, with appreciation, the Examiner's allowance of claims 1 through 4, 6 through 11, 15, and 17. Based upon the arguments submitted *supra*, it should be apparent that the imposed rejections have been overcome and that all pending claims are in condition for immediate allowance. Favorable consideration is, therefore, solicited.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

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